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APPLICATION NO. FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. FILING DATE 10/651,320 08/28/2003 Thomas M. McCormick CH2M.44 **EXAMINER** 25871 12/16/2004 7590 SWANSON & BRATSCHUN L.L.C. SINGH, SUNIL 1745 SHEA CENTER DRIVE ART UNIT PAPER NUMBER SUITE 330 HIGHLANDS RANCH, CO 80129 3673

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Edensions of time may be available under the provisions of 37 CFR 1.35(a). In or event, however, may a reply be limely filed after 51% (NOWNTHS from the mailing date of this communication. Period of the period of the provision of Claims 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-28 is/are pending in the application. 4a) Of the above claim(s)is/are withdrawn from consideration. 5) Claim(s) 1-17 is/are allowed. 5) Claim(s) 1-17 is/are allowed. 6) Claim(s) 1-17 is/are allowed. 6) Claim(s) 1-17 is/are allowed. 7) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are objected to provision of the drawing(s) be held in above. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 1) Acknowledgment is mad | Office Action Summary | Examiner | Art Unit | | |
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| The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edentions of time may be available under the provision of 3 CFR 1.13(d), in no event, however, may a reply be timely filed in the period for reply specified above is lises than their (30 days, a neply which the satisfactory reliable under the provision of 17 CFR 1.13(d)). In the period for reply specified above is lises than their (30 days, a neply which the satisfactory reply which is not accordance with the period for reply specified above is lises than their (30 days, a neply which the satisfactory reply which is not accordance which the period for reply specified above is lises than their (30 days, a neply which the satisfactory reply which is the nation of the specification is of the communication. Finally the satisfactory and the specification is became AdaPACNED (25 U.S.C. § 13). Final period patent term adjustment. See 37 CFR 1.76(d). This action is FINAL. 1) Responsive to communication(s) filed on | | | | NAA/ | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of moments by existed before the provision of 3 CFR 1.136(a). In no event, however, may a reply be timely filed If the period for reply specified above is less than thirty (30 days, a reply villan the statistary minimum of thirty (30 days, and 11 hoperod for reply specified above is less than thirty (30 days, a reply villan the statistary minimum of thirty (30 days, and 11 hoperod for reply specified above is less than thirty (30 days, a reply villan the statistary minimum of thirty (30 days, and 11 hoperod for reply specified above is less than thirty (30 days, a reply villan the statistary minimum of thirty (30 days, and 11 hoperod for reply specified above is less than thirty (30 days, a reply villan the statistics) minimum of thirty (30 days, and 11 hoperod for reply specified above is less than thirty (30 days, a reply villan) and the replication of the provision of the statistic or provision of the statistic or provision of the statistic or provision of the specification is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-22 is/are pending in the application. 4) Claim(s) 1-22 is/are allowed. 5) Claim(s) 1-17 is/are allowed. 5) Claim(s) 1-17 is/are allowed. 5) Claim(s) 1-19 is/are allowed. 6) Claim(s) 1-21 and 2-22 is/are objected to. 7) Claim(s) 3-2.2 and 2-22 is/are objected to. 8) Claim(s) 3-2.3 is/are value and a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or by objected to .Sea 37 CFR 1.121(d). 11) The oath or declaration is objected to by the | | | | Idress | |
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| Paper No(s)/Mail Date 6) Other: U.S. Patent and Trademark Office | 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Da | ate | 0.450) | |
| | | | atent Application (PTC | O-152) | |
| | U.S. Patent and Trademark Office PTOL-326 (Rev. 1-04) Office Ad | ction Summary Pa | nt of Paper No./Mail D | ate 20041210 | |

Application No.

10/651,320

Applicant(s)

MCCORMICK ET AL.

Application/Control Number: 10/651,320

Art Unit: 3673

DETAILED ACTION

Claim Rejections - 35 USC § 112

- 1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
 - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 requires for the second depth to equal zero inches; however, claim 1 calls for the second depth to overly the utility line, thus this is not possible how could it be zero and at the same time overly it.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 4. Claims 1,2,4,9,18-21, 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by lacocca et al. (US 5120164).

lacocca et al. disclose a bedding for a utility line (28) comprising: an elongate trench formed in the earth (see col. 3 lines 30+, Fig. 5); a filter fabric wrap (27) lining a lengthwise segment of the trench having a select length; a first select depth of porous particulate material resting on a trench bottom underlying a utility line and supporting the utility line in the lengthwise segment; and a second select depth of porous

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particulate material overlying the utility pipe in the lengthwise segment; the select length of the lengthwise segment, the first select depth and the second select depth being selected to store a select volume of water.

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5. Claims 1-4,9,18-21, 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Repka (US 5495696).

Repka discloses a bedding for a utility line (5) comprising: an elongate trench formed in the earth (see Fig. 1); a filter fabric wrap (4) lining a lengthwise segment of the trench having a select length; a first select depth of porous particulate material (3) resting on a trench bottom underlying a utility line and supporting the utility line in the lengthwise segment; and a second select depth of porous particulate material (3) overlying the utility pipe in the lengthwise segment; the select length of the lengthwise segment, the first select depth and the second select depth being selected to store a select volume of water. Drainage well (18). Conduit (2) providing communication with source of water (surface water from rainfall) to the trench.

Allowable Subject Matter

- 6. Claims 11-17 are allowed.
- 7. Claims 5-8, 22, 23 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 11, 18 and 25 have been considered but are most in view of the new ground(s) of rejection.

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Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh
Primary Examiner
Art Unit 3673

SS 12/10/04